IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODPUR

ORDER

S. B. Criminal Misc. Petition No.1344/2007

(Vikas Kumar Vs. State)

Date of Order : September 20, 2007

HON'BLE MR. H.R. PANWAR, J.

Mr. Pankaj Sharma for the petitioner.
Mr. Ashok Upadhyay, P.P.

BY THE COURT :

By the instant misc. petition under Section 482 of the Code of Criminal Procedure, 1973 (for short "the Code" hereinafter), the petitioner has challenged the Order dated 24th June, 2006 passed by the Additional Sessions Judge No.2, Sri Ganganagar (for short "the Revisional Court" hereinafter) whereby the revision petition filed by the petitioner against the order dated 28th July, 2005 passed by the Chief Judicial Magistrate, Sri Ganganagar (for short "the trial court" hereinafter) was dismissed.

I have heard learned counsel for the parties and perused the impugned orders passed by the Revisional Court as well as of the trial court.

By order dated 28th July, 2005, on the basis of the material placed before the trial court, the trial court took cognizance of the offence under Sections 193 & 120B IPC and Section 29 of the Police Act. The said order came to be challenged before the Revisional Court. The Revisional Court on consideration of the record of the trial court and material placed before it, prima facie, came to the conclusion that there is sufficient material on record for taking cognizance of offences and accordingly the trial court took cognizance. On careful perusal of material on record of trial court, in my view, there is sufficient ground to proceed against the accused petitioner. The petitioner has challenged the order of the learned Revisional Court, under the garb of a petition under Section 482 Cr.P.C., the petitioner seeks to avail a remedy of second revision, which is barred by Section 397(3) Cr.P.C.

In the instant case, the petitioner who is head constable, on checking, found collecting illegal gratification from the vehicles on Sudhwali bye pass whereas he was posted for duty to some other place. The petitioner being police official,

therefore, Section 29 of the Police Act has also been added. He has also prepared false document of medical certificate on the ground of his illness. So far as "false document" is concerned, Section 193 IPC says that whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, and in the present case, the petitioner has prepared false document and there is evidence that he used false document, therefore, in the instant case, there is no miscarriage of justice or abuse of process of the Court, which may require interference by this Court for exercising inherent powers under Sections 482 of the Code.

The misc. petition is, therefore, dismissed.

(H.R. PANWAR), J.

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